

# EXHIBIT 2

**In The Matter Of:**

*BLUE SPIKE, LLC*

*v.*

*TEXAS INSTRUMENTS, et al.*

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*MICHAEL W. BERRY - Vol. 1*

*February 10, 2015*

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***CONFIDENTIAL***  
***UNDER THE PROTECTIVE ORDER***

**MERRILL CORPORATION**

**LegalLink, Inc.**

27 Maiden Lane  
Suite 300  
San Francisco, CA 94108  
Phone: 415.357.4300  
Fax: 415.357.4301

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

BLUE SPIKE, LLC, )  
 )  
 )  
 )  
Plaintiffs, )  
 )  
 )  
vs. ) NO. 6:12-cv-576 MHS  
 )  
TEXAS INSTRUMENTS, et al., )  
 )  
 )  
Defendants. )

VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION  
OF:  
MICHAEL W. BERRY

1221 2nd Avenue, Suite 500  
Seattle, Washington

\* \* \* \* \*

CONFIDENTIAL - UNDER THE PROTECTIVE ORDER

DATE: February 10, 2015

REPORTED BY: Tia Reidt  
CCR #2798, RPR

SF-021137

1 APPEARANCES

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3 On behalf of the Plaintiff Blue Spike:

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19 On behalf of the Defendant CBS Interactive and Last.fm:

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11 On behalf of the third-party witness:

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CONFIDENTIAL - UNDER THE PROTECTIVE ORDER

MICHAEL W. BERRY - 2/10/2015

Page 4

1

APPEARANCES CONTINUED

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On behalf of the Defendant Morpho Trust USA, L-1 Identity

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Solutions, Morpho Track, Inc., and Safran USA

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CONFIDENTIAL - UNDER THE PROTECTIVE ORDER  
MICHAEL W. BERRY - 2/10/2015

Page 5

1

# EXAMINATION INDEX

2

3

EXAMINATION BY

PAGE

4

Mr. Ramsey

8

5

106

6

151

7

Ms. Shinn

73

8

Mr. Perito

94

9

Mr. Garteiser

138

10

11

## EXHIBIT INDEX

12

13

EXHIBIT

DESCRIPTION

PAGE

14

EXHIBIT 40

Document entitled Exhibit 6,

96

15

Computer Vision for Music

16

Identification.

17

EXHIBIT 41

Computer Vision for Music

97

18

Identification Abstract.

19

EXHIBIT 42

E-mail re: Pricing for SDMI and

131

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Sony.

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MICHAEL W. BERRY - 2/10/2015

Page 107

1	individuals?	02:35:30
2	A. They were all members of Muscle Fish, which is	02:35:30
3	a contract -- software contracting company that I	02:35:35
4	subcontracted for starting in 1997.	02:35:40
5	Q. Okay. If you could please turn to Column 3 -	02:35:43
6	it will be labeled at the top "Column 3" - of Exhibit 18	02:35:49
7	and let me know when you're there.	02:35:53
8	A. Column 3.	02:36:06
9	Q. Okay. If you can just take a moment and look	02:36:07
10	at Column 3 lines 4 through 21, just that paragraph, and	02:36:10
11	let me know when you have had a chance to review that	02:36:15
12	briefly.	02:36:18
13	A. (Witness peruses document.)	02:36:21
14	Okay.	02:36:58
15	Q. Okay. So first of all, I'm going ask you:	02:36:58
16	Column 3 lines 5 through 21 of the -223 patent describes	02:37:03
17	the creation of a feature vector containing MFCC values.	02:37:08
18	Do you see that?	02:37:13
19	A. Yes.	02:37:14
20	Q. So if you could turn quickly to the front of	02:37:18
21	Exhibit 18, the -223 patent.	02:37:21
22	You see that the -223 patent issued in June of	02:37:23
23	1999; correct?	02:37:26
24	A. Yes.	02:37:27
25	Q. So when you filed your signal abstracting	02:37:28



1 patent in 2000, is it fair to say it was not your intent 02:37:32

2 to try to cover some prior system -- technique of 02:37:36

3 creating feature vectors containing MFCC values? You 02:37:41

4 weren't trying to claim that, were you? 02:37:46

5 MR. GARTEISER: Hold on. Object to form. 02:37:47

6 BY MR. RAMSEY: 02:37:50

7 Q. That was not your intent; right? 02:37:50

8 A. That was not my intent. 02:37:50

9 Q. Okay. And is it fair to say that the signal 02:37:53  
10 abstracting technique in your later filed -472 patent 02:37:56  
11 was a different type of compression technique than is 02:38:02  
12 described in paragraph 3? 02:38:09

13 MR. LANSVERK: Object to form. 02:38:13

14 BY MR. RAMSEY: 02:38:13

15 Q. That's a horrible question. I'm going to 02:38:14  
16 start all over. 02:38:16

17 Is it fair to say that the signal abstract in 02:38:17  
18 your -472 patent just is not a feature vector containing 02:38:20  
19 MFCC values? It's something different than that? 02:38:26

20 MR. LANSVERK: Again, object to the form. 02:38:28

21 THE WITNESS: The -472 patent is not specific 02:38:33  
22 as to the method by which a feature -- you know, a 02:38:36  
23 signal abstract would be created. 02:38:42

24 BY MR. RAMSEY: 02:38:45

25 Q. Okay. So you talked just a moment ago about 02:38:47

C E R T I F I C A T E

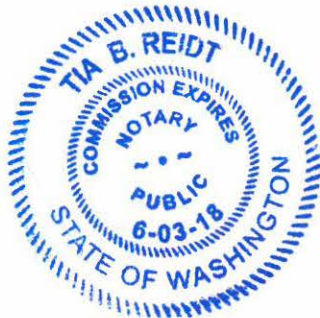
STATE OF WASHINGTON     )  
                                      ) ss  
COUNTY OF KING         )

I, the undersigned officer of the Court, under my commission as a Notary Public in and for the State of Washington, hereby certify that the foregoing deposition upon oral examination of the witness named herein was taken stenographically before me and thereafter transcribed under my direction;

That the witness before the examination was first duly sworn by me to testify truthfully; that the transcript of the deposition is a full, true and correct transcript of the testimony, including questions and answers and all objections, motions, and exceptions of counsel made and taken at the time of the foregoing examination;

That I am neither attorney for nor a relative or employee of any of the parties to the action; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this     day of     , 2015.



*Tia B. Reidt*

Tia B. Reidt  
NOTARY PUBLIC in and for  
the State of Washington,  
residing in King County.  
My commission expires 6-3-18.

# MERRILL CORPORATION



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February 20, 2015

Michael Berry  
c/o Eric Lansverk  
Hillis, Clark, Martin & Peterson  
1221 2<sup>nd</sup> Avenue, Suite 500  
Seattle, WA 98101

***In re: Spike v. Texas Instruments, et al.***

Dear Mr. Berry:

Please be advised that the original transcript of your deposition taken on February 10, 2015 in the above-entitled matter is available for reading and signing. The original will be held at the offices of:

Merrill Corporation  
27 Maiden Lane, Suite 300  
San Francisco, California 94108  
(415)357-4300

for thirty (30) days in accordance with Federal Rules of Civil Procedure Section 30 (e). If you do not sign your deposition within 30 days from the date of this letter, it may be used as fully as though signed.

If you are represented by counsel in this matter, you may wish to ask your attorney how to proceed. If you are not represented by counsel and wish to review your transcript, please contact our office for a mutually convenient appointment to review your deposition.

Thank you for your cooperation in this matter.

Very truly yours,

Client Services  
Merrill Corporation, San Francisco

cc: Original transcript  
All Counsel